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March 7, 2006

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K St. N.W.
Washington, D.C. 20423

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Office of Proceedings

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Public Record



RE: STB Ex Parte No. 647, *Class Exemption for Expedited Abandonment Procedure for Class II and Class III Railroads*

Dear Secretary Williams:

On May 15, 2003, sixty-five short line and regional carriers (Petitioners) filed a petition requesting the Board to institute a rulemaking proceeding to take comments on an exemption proposed by the Petitioners, by which the Board would issue rules that would exempt a class of small carriers from the prior approval abandonment requirements of 49 U.S.C. 1903. The Board took initial comments and held a hearing on this matter in 2004. Thereafter, in a decision issued January 19, 2006, the Board issued an Advance Notice of Proposed Rulemaking, in which it sought comments from interested persons on the proposal and possible alternatives to it.

This letter is written on behalf of The National Industrial Transportation League (League), the nation's largest and oldest association of companies concerned with transportation, in response to the Board's January 19, 2006 decision. The League respectfully requests permission to submit these short comments one day late. The League's Railroad Transportation Committee, which is composed of League members interested in rail transportation, met on March 6, 2006 (the due date for initial comments in this proceeding) in Atlanta, Georgia. This proceeding was one of the topics discussed at the meeting. The League desired to have input from its members before submitting its views, and the short delay in submitting these brief comments will not prejudice any party.

In a letter dated August 24, 2004 to the Board regarding the Petitioners' proposal, the League noted that the proposal advanced by the Petitioners had "fundamental merit." In that letter, the League stated that a "simplification of the regulatory process for Class II and Class III carriers that permits abandonments and offers of financial assistance to proceed before rail infrastructure deteriorates will strengthen the rail network." The League reiterates those views here, and supports the basic proposal of the Petitioners.

However, in its August 24 letter, the League noted that there were aspects of the proposal that could be improved during the rulemaking process. Specifically, the League noted that there should be more notice to shippers of the proposed abandonment. The League continues to believe that the proposal could be improved by giving shippers somewhat more notice of the

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proposed abandonment, to enable shippers to plan either to make an offer of financial assistance, or to develop alternative transportation arrangements in the event that the line is to be abandoned.

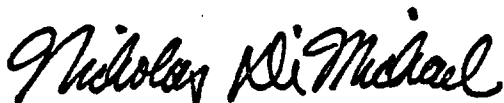
In that connection, the League notes that the Petitioners have proposed that a new 60-day prefiling notice to the Board be included in the proposal. As the League understands this proposal, the prefiling notice to the agency would be required 60 days prior to the filing of the exemption notice with the Board. Under the Petitioners' revised proposal, a letter of intent to file the exemption would also be required to be sent to all shippers that have used the line in the preceding 36-month period. That letter of intent would be due 40 days before the exemption notice is filed. In other words, under the Petitioners' revised proposal, 60 days before the exemption is filed, a prefiling notice to the Board would be required; and 20 days later (or 40 days before the exemption is filed), a letter would be sent to the shippers that have used the line in the previous 36 months.

The League welcomes the Petitioners' concept of a prefiling notice, to give all interested parties sufficient time to analyze the matter and to begin to prepare a response.

However, the League believes that the procedure could be improved still further by providing that the letter to shippers be sent 40 days before the prefiling notice to the Board, to give the shippers on the line – those who are most interested in the status of the line – somewhat more time than the general public would receive through the prefiling notice. In other words, the procedure should provide that, on Day 0, a letter of intent to file an exemption should be sent to the shippers on the line notifying them of the proposed abandonment. Then, on Day 40, the prefiling notice should be sent to the Board; and on Day 100, the exemption should be filed. This modest enlargement (by 40 days) of the process suggested by the Petitioners would, the League believes, materially improve the Petitioners' proposal.

The League welcomes the opportunity to present its views to the Board, and would welcome the opportunity to discuss its views with any interested party.

Sincerely,



Nicholas J. DiMichael
Counsel for The National Industrial Transportation League